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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,950	12/26/2001	Bhami Shenoy	VPI/00-08	9344

1473 7590 10/25/2004

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EXAMINER

FETTEROLF, BRANDON J

ART UNIT	PAPER NUMBER
	1642

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

Shenoy *et al.*

Date of Priority: 12/28/2000

### *Response to Applicants Election*

The reply filed on August 24, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants contend that they are confused by the Examiner's example of an appropriate group selection within a given embodiment because if applicants were to elect the group of Embodiment I proposed by the Examiner, it would appear not to fall within Embodiment I-to the extent that Embodiment includes diagnostic kits and also might lead to the need for an inordinate number of future divisional applications. Furthermore, due to this confusion and lack of Guidance in the MPEP regarding Restriction Requirements of this type, applicants request further written clarification of the outstanding restriction.

An appropriate group election of Embodiment I would be, for example:

Embodiment I

Group I: The specific crystal of an antibody is Rituximab.

Linking Claims 1-3 and Claims 4, 7, 11, 17-39, 43-68, 70-71, and 74-76

Therapeutic agent, claim 5

Monoclonal, claim 6

Chimeric, claim 8

IgG, claim 9

IgG1, claim 10

Rituximab, claim 13

Anti-CD20 antibodies, claim 15

Treats cancer, claim 16

Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application.

The Examiner would than go onto a second group in Embodiment I, for example:

Embodiment I:

Group II: The specific crystal of an antibody is Infliximab.

Linking Claims 1-3 and Claims 4, 7, 11, 17-39, 43-68, 70-71, and 74-76

Therapeutic agent, claim 5

Monoclonal antibody, claim 6

Chimeric, claim 8

IgG, claim 9

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IgG1, claim 10  
Infliximab, claim 13  
Treats inflammatory disease, claim 16  
Anti-TNF antibodies, claim 15

Note: The applicant is not limited to the claims provided in the example described above and is required to list ALL claims which would read on the elected crystal of an antibody.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Fetterolf, PhD whose telephone number is (571)-272-2919. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brandon J Fetterolf, PhD

Examiner  
Art Unit 1642

BF

  
GARY NICKOL  
PRIMARY EXAMINER